

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLIFFORD LEE BAIR, No. CIV-S-04-2257 MCE/GGH P

Petitioner,

v.

ORDER

FOLSOM STATE PRISON, ET AL.,

Respondents.

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Petitioner, a state prisoner proceeding pro se, has timely filed a Notice of Appeal of this Court's November 17, 2005, denial of his Application for a Writ of Habeas Corpus. Before Petitioner can appeal this decision, a Certificate of Appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A Certificate of Appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

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1 The Certificate of Appealability must "indicate which specific
2 issue or issues satisfy" the requirement. 28 U.S.C.
3 § 2253(c)(3).

4 A Certificate of Appealability should be granted for any
5 issue that Petitioner can demonstrate is "'debatable among
6 jurists of reason,'" could be resolved differently by a different
7 court, or is "'adequate to deserve encouragement to proceed
8 further.'" Jennings v. Woodford, 290 F.3d 1006, 1010 (9th Cir.
9 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).¹

10 Petitioner has made a substantial showing of the denial of a
11 constitutional right in the following issue presented in the
12 instant petition: Whether Petitioner has a liberty interest in
13 parole.

14 Accordingly, IT IS HEREBY ORDERED that a Certificate of
15 Appealability is issued in the present action.

16 DATED: December 14, 2005

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20 MORRISON C. ENGLAND, JR.
21 UNITED STATES DISTRICT JUDGE
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25 ¹ Except for the requirement that appealable issues be
26 specifically identified, the standard for issuance of a
Certificate of Appealability is the same as the standard that
applied to issuance of a Certificate of Probable Cause.
Jennings, at 1010.